IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

-

WRIT PETITION NO : 12232 of 2002

Between:

P.Atchibabu s/o.(late) P.Maridaiah,

Aged about 31 years,

D.No.14-7-74,r/o.Jaggamagaripeta,

Samarlakota, East Godavari District.

..... PETITIONER

AND

1.Vice Chairman & Managing Director,

APSTRC Musheerabad,Hyderabad.

2.The Regional Manager,

APSRTC,Rajahmundry,

East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, particularly one in the nature of writ of mandamus, declaring the action of the respondents in not providing compassionate appointment to the petitioner in the respondents Corporation under bread winner scheme is highly arbitrary, unjust, discriminatory and violative of article 14,16,21 of the

Constitution of India. Consequently, direct the respondents herein to appoint the petitioner to the post of Driver or any other suitable post under bread winner scheme.

Counsel for the Petitioner:MR.S.A.RAZAK

Counsel for the Respondents:Mr.Y.Vivekananda Swamy

The Court made the following

ORDER:

The petitioner is son of late P.Maridaiah, who died on 2-5-1999 while he was working as a Driver in the respondents-Andhra Pradesh Road Transport Corporation leaving behind his wife, the petitioner and petitioner's two other brothers and a sister.

It is stated by the petitioner that his father, who was sole bread winner to their family, died all of a sudden and the entire burden lies on his shoulder, he being the eldest son. Accordingly, he made an application on 25-6-1999 seeking compassionate appointment to the post of Conductor or Sharamik under the bread winner scheme.

It is not in dispute that the petitioner made an application on 25-6-1999 seeking compassionate appointment to the post of Conductor or Sharamik(Cleaner) in the APSRTC under the bread winner scheme. It is also not in dispute that the father of the petitioner was died, while he was working as Driver in APSRTC on 2-5-1999. It is also not in dispute that the father of the petitioner died in harness on 2-5-1999.Therefore, he made an application on 25-6-1999 seeking compassionate appointment to the post of Conductor in APSRTC under the bread winner scheme but the said application has been rejected by order dated 8-9-1999 stating that the petitioner is not qualified for the post of Conductor as he does not possess the minimum qualification of VIII class and he is only able to read and write.

In so far as the post of the Sharamik is concerned, there are no sanctioned posts of Shramik. Therefore, the petitioner cannot be recruited to the post of

Sharamik. Accordingly, he was advised to choose for additional monetary benefit scheme in view of the employment as per the circular.

The learned counsel appearing for the petitioner submits that in fact, the petitioner is qualified for the post of Driver as he gained more than three years experience of driving and having heavy driving licence as required for the post of Driver, therefore, he is entitled for the post of Driver also.

The counsel for the respondents submits that the petitioner has got Heavy Driving Licence on 10-05-1999 and therefore, he was not having required experience as on the date of consideration i.e., on 8-9-1999 and merely because the petitioner qualified subsequently, it cannot be said that he is entitled for the post of Driver at this juncture.

In the circular issued on 5-5-2002, the qualifications are prescribed for the post of Driver on compassionate appointment under the bread winner scheme reads as follows:

> *Must have been holding a Driving Licence valid for driving HPMV and HGV continuously for a period of not less than 3 years on the date of selection.*

His first selection came for consideration on 8-9-1999 and admittedly, he was not having licence of three years experience for heavy driving licence as on 8-9-1999. Therefore, the petitioner is entitled only for the post of Shramik as per the said scheme as his father died prior to 10-05-1999. The requisite qualification of passing VIII class is only required in the case of employees who died in harness after 10-5-1999. But in the case of employees who died in harness prior to 10-5-1999, the requisite qualification was only to read and write. As the father of the petitioner died on 2-5-1999 i.e. prior to 10-5-1999, the petitioner is entitled for the post of Shramik.

Accordingly, the respondents are directed to consider the case of the petitioner for the post of Shramik keeping in view the date of death of his father and his application dated 25-6-1999 and place his name in an appropriate seniority list for his recruitment to the post of Sharamik.

The learned counsel for the respondents submits that as on the date, there are no vacancies and there are several applications are pending for recruitment to the post of Shramik whose bread winners died in harness.

That being so, the petitioner is entitled to be considered along with other aspirants of employment under bread winner scheme, by taking into consideration of date of death of his father and his first application against existing or future existing vacancies and without considering the cases of such persons seeking appointment under the bread winner scheme, the APSRTC shall not recruit any fresher to the post of Sharamik.

The Writ Petition is accordingly disposed of. No costs.

27-10-2004

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SECTION OFFICER

To

1.Vice Chairman & Managing Director,

APSTRC Musheerabad,Hyderabad.

2.The Regional Manager,

APSRTC,Rajahmundry,

East Godavari District.

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THE HON'BLE MR JUSTICE V.ESWARAIAH

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